Jan 31 1878

70th 1-9 Submitted
Oct. 2. 1877 14 January

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 668.

THE UNITED STATES, APPELLANT,

vs.

THE HEIRS OF JOHN WATKINS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

[redacted]

FILED MARCH 21, 1877.

Oct 2 1878
Abbott
Jno Bradley

SUPREME COURT OF THE UNITED STATES.

No. 668.

THE UNITED STATES, APPELLANT,

vs.

THE HEIRS OF JOHN WATKINS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

INDEX.

	Original.	Print.
Petition	1	1
Supplemental and amended petition	10	4
Answer	13	5
Demurrer to supplemental and amended petition	20	7
Order demurrer fixed for hearing	22	8
Replication	23	8
Submission of demurrer	24	8
Demurrer sustained and supplemental petition dismissed	25	9
Memorandum of plaintiff's evidence	25	9
Memorandum of defendant's evidence	30	10
Stipulation as to maps	31	11
Translation act of sale	31	11
Consent to publication of testimony	35	12
Order case fixed	36	13
Motion to suppress testimony	37	13
Order cause fixed	37	13
Hearing and submission	38	13
Decree	39	14
Appeal by plaintiff	41	14
Appeal by defendant	42	15
Reasons for reducing bond	43	15
Order amending order of appeal	44	15
Appeal bond	45	16
Maps	47	16
Clerk's certificate	48	16

a District court of the United States for the district of Louisiana.

HEIRS JOHN WATKINS ET ALS.
vs.
THE UNITED STATES. } No. 33.

Appeal by complainant and defendant.

R. H. & J. L. Bradford for complainant; U. S. att'y for defendant.

Returnable to the Supreme Court of the United States on the 2d Monday of October, 1877.

1 *Petition.—Filed Nov'b'r 11th*, 1874.

HEIRS OF JOHN WATKINS
vs.
THE UNITED STATES. } No. 33.

To the judge of the district court of the United States for the district of Louisiana:

This petition of Elize Watkins, Henry Watkins, Lucie Watkins, (wife of Edward R. Hogan), all of the city of New Orleans, parish of Orleans, & State of Louisiana; of John H. Watkins, of the city of Galveston, Galveston County in the State of Texas, the sole legal heirs of their deceased father, John Watkins, who was the sole and only heir of his father Dr. John Watkins, deceased; & of Melanie Bringier, widow of James F. Wilson, deceased, & formerly widow, & sole legal heir of William Simpson, deceased, of the parish of Ascension & State of Louisiana, with respect shows:

That as the legal representatives of Carlos, or Don Carlos, or Charles Ramos, they are entitled, under international law, treaty stipu-
2 lations, & the legislation of the United States, to a judicial recognition and confirmation of a Spanish grant or patent for twenty thousand arpens of land, in the present parish of East Baton Rouge, in the State of Louisiana, which land belongs to petitioners as the legal representatives aforesaid, & is supposed to cover the legal divisions & subdivisions of the surveys made by the United States, which are represented on the plat filed heretofore in this honorable court, in the suit of the heirs of James Innerarity *vs.* The United States, No. 16, New Land Docket, & which is referred to and prayed to be made a part of this petition for this:

That on the 1st of October, 1803, Don Juan Bonaventura Morales, principal controller of the army & finances, & intendant-general of the province of Louisiana & West Florida, issued the usual order of survey for said land in favor of Carlos Ramos.

That on the 23rd December, 1803, Don Vincent Sebastian Pintado, surveyor-general of Florida West, where said land is situated,
3 executed two plats & certificates of survey of said lands, locating 7,892 arpens thereof in the present townships 4 & 5 south, of range 2 east, & the remaining 12,108 arpents thereof in the present townships 5 & 6 south, of range 2 east, all in the former St. Helena or Greensburg land district, now the New Orleans consolidated land district, in the State of Louisiana.

That afterwards the said Carlos Ramos bought the said land from the

proper Spanish colonial authorities, and paid therefore at the rate of ten cents per arpent. That afterwards, on the 5th of March, 1804, the said intendant-general granted a complete Spanish patent in favor of said Charles Ramos for said land.

That said patent & said other written evidences of title emanated from the foreign Government of Spain, & bear date & were perfected prior to the cession to the United States of the district in which said land is situated, & during the period when said Government of
4 Spain claimed sovereignty over & had the actual possession of said district.

That said lands have not been in possession of & cultivated by the original claimant, or those holding title under him for a period of twenty years next preceding the date of filing this petition. That after the issuing of said patent the said land became the property of the said Carlos Ramos, through whom your petitioners claim the same.

That said Carlos Ramos sold & conveyed the said land & all his right, estate, and interest in the said grant on the 8th of March, 1804, to William Simpson & to John Watkins in equal undivided parts. That the said William Simpson died about the year 1812, in the city of New Orleans, leaving a last will & testament which was probated & executed in the second district court of the parish of Orleans & State of Louisiana, whereby he devised his said interest in said land to your petitioner Melanie Bringier, formerly wife of the said William
5 Simpson & now widow of James F. Wilson, dec'd.

That the said John Watkins died intestate in the city of New Orleans about the year 1812, leaving as his sole heir and only child John Watkins, jr., who died also intestate about the year 1864, in said city of New Orleans, leaving as his sole heirs your petitioners, Elize Watkins, Henry Watkins, Lucie Watkins, (wife of E. R. Hogan,) & John H. Watkins.

That by act of Congress of the 8th of April, 1812, the State of Louisiana was admitted into the Union, & that, by act of Congress of 14th April, 1812, the boundaries of said State were extended to embrace the district of country containing the said grant of 20,000 arpens.

That under act of Congress No. 67 of the 25th of April, 1812, the said claim to said 20,000 arpents of land was submitted for ascertainment & ultimate legislative confirmation to James O. Cosby, then United States land commissioner for the late land district west of Pearl River, now part of the New Orleans consolidated land district of Louisiana;
6 that afterwards, the said commissioner reported the said claim to the Treasury Department in Washington as one which, in his opinion, was not valid, agreeably to the laws, usages, and customs of the Spanish Government.

That said claim, as so reported, is numbered 15, in register C of the report of said commissioner, & is published in the American State Papers, Public Lands, vol. 3, p. 54, Green's ed. That by reason of such adverse opinion, the United States have never taken any action whatever in regard to said claim, & have never confirmed or recognized the same.

And your petitioners further show that by the act of Congress of June 10th, 1872, the act of Congress of 22d June, 1860, was revised and re-enacted for the period of three years, & that said acts being still in force, this court has jurisdiction of this suit.

And your petitioners further show that heretofore the heirs of James Innerarity brought suit in this honorable court against the

7 United States for the confirmation of the same title, & to the same lands now claimed by your petitioners, which suit was numbered 16 on the land-docket, & was filed March 1st, 1870.

That said suit was prosecuted for the sole use and benefit of the true and equitable owners of the said lands, among which were your petitioners.

That from a final decree in this honorable court confirming the said grant, an appeal was prosecuted to the Supreme Court of the United States, in which court said case was designated United States, appellants, vs. The heirs of James Innerarity, No. 247, & that said court reversed the decree aforesaid, & ordered the dismissal of said suit in this honorable court upon the ground, as your petitioners are informed & believe, that the true owners should themselves have sued for said lands as they now do.

That, at the trial hereof, your petitioners will claim the right to offer a duly-certified copy of the transcript of the record of appeal in
8 said suit as evidence in the suit now brought by your petitioners.

The foregoing considered, your petitioners respectfully pray that the United States be cited, through their district attorney for the district of Louisiana, to answer this petition, & that, after due proceedings had, the title of your petitioners to the said 20,000 arpents of land, heretofore described, be declared a valid & binding title against the United States; that for so much of said land as shall be found to remain unsold or undisposed of by the United States prior to confirmation, patents shall issue to your petitioners; & that for so much of said land as shall appear to have been sold or otherwise disposed of by the United States, or which may appear by the surveyor-general of the proper district to be incapable of survey & location, your petitioners may be declared to have the right to locate in lieu thereof a like quantity of land, according to the provisions of sec. 6 of the act of 22d
9 June, 1860, on any of the public lands of the United States, subject to private entry at $1.25 per acre, according to legal divisions & subdivisions.

And your petitioners pray for all costs, & for general relief; and, as in duty bound, will ever pray, &c.

By their counsel.

R. H. & J. L. BRADFORD, *Att'ys.*

STATE OF LOUISIANA,
Parish of Orleans:

On this 1st day of May, 1874, before me personally came Lucie Hogan, who makes oath that the allegations in the foregoing petition made of her own knowledge are true, & as for those made on information, she believes them to be true.

(Signed) L. HOGAN.

Sworn to and subscribed before me at New Orleans, Louisiana, this first of May, A. D. 1874.

(Signed) [L. S.] M. L. AINSWORTH,
Notary Public.

(Endorsed:) Filed Nov'ber 11th, 1874. K. Loew, d'y cl'k. Service made 11 Nov., 1874. J. W. Gurley, ass't U. S. att'y.

10 *Supplemental & amended petition.—Filed M'ch 29th, '76.*

United States district court for the dis't of Louisiana.

HEIRS OF JOHN WATKINS ET ALS.
vs.
THE UNITED STATES. } No. 33.

The supplemental & amended petition of Eliza Watkins, Henry Watkins, John H. Watkins, Lucie Watkins, (wife of Edward R. Hogan,) & of Melanie Bringier, (widow of James F. Wilson, dec'd,) with respect shows:

That it has come to the memory and notice of your petitioner, Melanie Bringier, since the institution of this suit, that on or about the 16th day of June, in the year 1813, she sold and conveyed unto James Innerarity, then residing in Mobile, & for a valuable consideration, all her right & interest in the succession of her then recently deceased husband, William Simpson, as universal legatee and instituted heir under his will, which said conveyance seems to estop your petitioner from claiming the undivided moiety of the said 20,000 arpens of land in this suit claimed, unless it be for the use and benefit of the said Innerarity, his heirs or legal representatives.

11 That said James Innerarity was at the time the testementary executor of the said William Simpson, & engaged in settling his estate, which, as declared in his said will, consisted entirely, with the exception of some personal effects of small value, of the shares held by him in the then extensive mercantile house of John Forbes & Co., of Mobile, Nassau, & New Orleans; that said house is believed to have consisted, when the said Simpson died, of John Forbes, James Innerarity, & the said William Simpson, & none others; that it was an old established maxim of said house that no partner could hold real estate purchased by him as seperate property, but that it should belong to the house jointly; that in the year 1814 it appears that the said Innerarity, in presenting the land-claim now sued on to the United States commissioner for land-claims west of Pearl River, only claimed for himself, or the estate of William Simpson, 4,750 arpens, & stated in his notice of claim that 1,000 arpens belonged to the widow of Carlos Ramos, & 4,750 other arpens to John Lynde; that the transactions of those early days are involved in doubt & perplexity, & that the memory of

12 your petitioner, after the lapse of more than half a century, fails to recall them clearly.

Wherefore, if said title to said moiety of said lands sold by Carlos Ramos to said Simpson, & devised to Melanie Bringier in his said will, has in fact been conveyed from her to said James Innerarity, either in his individual capacity or as a partner in the house of Forbes & Co., and whether the same is now vested in the legal representatives of said house, or the legal representatives of James Innerarity, or in them jointly with those of Ramos & Lynd, or in whomsoever the same may be vested in law or equity, if not in your petitioner, that then & in such case your petitioner acknowledges that she prosecutes this suit for the sole use and benefit of the said legal representatives of said Innerarity, or of them jointly with those of the house of Forbes & Co., the widow Ramos, & John Lynd, or for the sole use & benefit of whoever may hereafter be decreed to be the true, legal, & equitable owner of said lands.

Wherefore, the premises duly considered, your petitioners pray that

13 this their supplemental and amended petition may be filed, & that your petitioner Melanie Bringier (widow as aforesaid) may be allowed to prosecute this suit to final decree for the sole use of those who in a proper legal proceeding may establish their rights, contradictorily with your petitioner, under the said sale from her to the said Innerarity of the said 10,000 arpens of land, or any part thereof, in case said sale be held valid & to embrace said land. And as your petitioners will ever pray.

By their counsel,
(Signed) R. H. & J. L. BRADFORD.

(Endorsed:) It is admitted that a copy of this was served this 28th March, 1876. J. W. Gurley, ass't U. S. att'y. Filed March 29, '76. K. Loew, d'y cl'k.)

Let this amended & supplemental petition be filed.
March 29, 1876.

EDWARD C. BILLINGS, *Judge.*

Answer.—Filed March 31st, 1876.

District court of the United States for the district of Louisiana.

The answer of the United States to the petition of Eliza Watkins
14 and others, heirs of John Watkins, dec'd, and of Melangier Bringier, widow of James F. Wilson, deceased, and formerly widow & heir of William Simpson, deceased, plaintiffs.

Defendants, now and all times hereafter saving and reserving unto themselves all benefit and advantage of exception which can or may be had or taken to the many errors and uncertainties & other imperfections in the said plaintiffs' petition contained, for answer unto the said petition, or unto so much and such parts thereof as they are advised is or are material or necessary for them to make answer unto, these defendants answering, saieth: That they are ignorant whether any such grant or sales of land as are set forth in plaintiff's petition were made to the person therein named in manner & form as alledged, & they therefore deny the same; that they are ignorant of the mesne conveyances by which the title thereto is alleged to have been transferred therein, and of the heirship and representative capacity of the said plaintiffs, and they deny that the said plaintiffs are the heirs, devisees, legal representatives, or assigns of the said Charles Ramos, under whom they claim title,
15 or that they are entitled as legal representatives of said Charles Ramos to claim the same lands or any part thereof; and of this defendants pray that said plaintiffs be required to furnish full and strict proof.

And, further answering, defendants say that, if any grants or sales of land, as in said petition alleged, was made to the said Charles Ramos, defendants deny that the same was so made by competant authority under the Spanish Government, or that the same was ever separated by actual survey and metes & bounds from the public domain, and the same grant is therefore null & void by reason of uncertainty of location & vagueness of description; and defendants deny that this descriptive plats annexed to plaintiffs' petition show with legal certainty or accuracy the locality of the said grants and the lands & townships, or portions thereof, which are covered by the same.

And, further answering, defendants aver that, under the 6th section of

the act of Congress approved 22nd June, 1860, under which this
16 suit is instituted, petitioner is entitled, in the event of the confirmation of the title, by the court, and in case it shall appear that the lands claimed, or any part thereof, have been sold by the United States, or the surveyor-general shall ascertain that the same or any part thereof cannot be surveyed or located, to enter upon public lands of the United States a quantity equal in extent to that sold by the government, and by the 11th section of the said act, to a patent for so much as remains unsold & public. Defendants aver that it is nowhere in said petition alleged what quantity of the lands claimed to be embraced within the limits of the said grants have been sold by the United States, or what portion thereof, according to the legal divisions and subdivisions of the surveys of the United States, remain unsold & public, or cannot be surveyed & located by reason of any valid or legal cause; and that they are ignorant thereof, and require strict proof concerning the same.

17 And, further answering, def'd'ts aver that the history of legislation on the subject of Spanish & French grants show that it was the design of Congress, by the act of June, 1860, under which this suit is instituted, merely to relinquish to claimants whose title might be declared valid the lands remaining in the possession of the government, and to make to them compensation in scrip for as much as may have been "sold" by it. That Congress did not intend to make compensation for lands "otherwise disposed of" by the government is evident by the omission from the last statute of those words ("otherwise disposed of") which formed a distinguishing feature of the parent act of 24 May, 1824, 4 Statutes, p. 55, authorizing similar suits in Missouri & Arkansas.

The 11th section of the Missouri & Arkansas act provides:

"That if in any case it should so happen that the lands, tenements, and hereditaments decreed to any claimant under the provisions of this act shall have been sold by the United States, or otherwise disposed of, * * * * it shall and may be lawful for the party to enter," &c.

18 Whereas in the corresponding provisions of the Louisiana act of June, 1860, section six, the words "otherwise disposed of" are omitted, and the relief of claimants is in terms confined to scrip for land equal in quantity to that which may have been "sold" by the government, the intention being to renounce, or in that manner restore, the direct pecuniary profit which they may have derived from the lands.

And further answering, defendants say that a large quantity of the land claimed by the plaintiffs to have been embraced within the limits of their said grant have been disposed of by the United States otherwise than by sale. And further answering, defendants say that by the terms of the said grant the rights of these persons to land which might be embraced within its lines are reserved; and defendants say that a large portion of the land within the alleged boundary-lines of said grant was at the time the same was made held by *their* persons under titles given & issued by competant authority, and the aggregate quantity
19 thereof should therefore be deducted from the quantity of land claimed by petitioners.

And defendants deny that any other matter, cause, or thing in the said plaintiffs' petition contained, material or necessary for them to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge and belief of defendants.

All which matters and things this defendant is ready and willing to aver, maintain, and prove as this hon. court shall direct, and humbly

pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

J. R. BECKWITH,
U. S. Att'y.

(Endorsed:) Filed March 31, 1876. K. Loew, d'y cl'k. J. R. Beckwith, U. S. att'y.

Demurrer to supplemental & amended petition.—Filed April 1st, 1876.

In the district court of the United States for the district of Louisiana.

HEIRS OF JOHN WATKINS & ALS. *vs.* THE UNITED STATES. } No. 33. New land-docket.

THE UNITED STATES:

The demurrer of the United States, defendant, to the supplemental and amended petition of Eliza Watkins & others, heirs of John Watkins, and of Melanie Bringier, widow of James F. Wilson, dec'd, petitioners.

Defendant, by protestation not confessing or acknowledging all or any of the matters & things in the said petitioners' petition to be true in such manner and form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer showeth: That the said petitioners have not, in and by their said supplemental & amended petition, made or stated such a case as doth or ought to entitle them to any such relief as is therein prayed for from or against this defendant;

21 that the act of Congress of 22 June, 1860, entitled "An act for the final adjustment of private land claims in the States Florida, Louisiana, & Missouri, & for other purposes," had, long prior to the filing of the said supplemental & amended petition, expired by limitation, and the court is therefore without jurisdiction to entertain, hear, or determine the matters therein set forth.

That the said supplemental & amended petition is virtually an original and new suit, in the sole interest of persons not parties to the original petition filed in the cause in the caption hereof named, and as such cannot legally be instituted after the expiration of the act of Congress aforesaid; that the matters and things in the said supplemental and amended petition as therein alleged and set forth are too vauge, uncertain, and indefinite to be answered unto; that the act of Congress above referred to limits the right of action in cases of this character instituted under its provisions to the original grantees, or claimants,

22 and their legal representatives, and the supplemental and amended petition fails to set out who are the plaintiffs therein claiming to be the legal representatives of the original grantee of the lands in suit.

Wherefore defendants demand the judgment of this hon. court, whether they shall be compelled to make further or other answer to the said supplemental and amended petition, or any of the matters and things therein contained, and prays to be hence dismissed with their reasonable costs in this behalf sustained.

(Signed) J. R. BECKWITH,
U. S. Att'y.

The foregoing demurrer is, in my opinion, well founded in law, and is not interposed for delay.

J. R. BECKWITH,
U. S. Att'y.

(Endorsed:) Demurrer to supplemental and amended petition. Filed April 1st, 1876. K. Loew, d'y cl'k.

Motion & order fixing demurrer for hearing.—Extracts from the minutes of April 1st, 1876.

Feb'y term, 1876.

JOHN WATKINS ET AL.
vs.
THE UNITED STATES. } No. 33

Present, his Hon. E. C. Billings.

23 On motion of R. H. & J. L. Bradford, counsel for complainants, it is ordered that the demurrer of the defendants to the supplemental & amended petition fixed herein on 29 March, 1876, be set down for argument on the 5th April, 1876, at 11 a. m., and that the U. S. att'y be notified. Adjournment.

Replication.—Filed April 3rd, 1876.

To the honorable district court of the United States for the district of Louisiana.

The replication of Eliza Watkins, Lucie Watkins, (wife of E. R. Hogan,) John H. Watkins, Henry Watkins, and Melanie Bringier, widow of James F. Wilson, deceased, to the answer of the United States, filed by the district attorney thereof in the suit pending in this honorable court between the said replicants & the United States:

These replicants, saving and reserving unto themselves all & all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver & prove
24 their said bill to be true & certain & sufficient in the law to be answered unto, and that said answer of said defendant is uncertain, untrue, & insufficient to be replied unto by these replicants; without this, that any matter or thing whatsoever in said answer contained, material or effectual in law to be replied unto, confessed & avoided, traversed or denied, is true. All of which matters, &c., and things these replicants are and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

By their solicitors.

R. H. & J. L. BRADFORD.

(Endorsed.) Filed April 3d, 1876. J. A. Charbonnet, d'y cl'k.

Submission of demurrer.—Extract from the minutes.

WEDNESDAY, *April 5th*, 1876.

Feb'y term, 1876.

JOHN WATKINS & AL.
vs.
THE UNITED STATES. } No. 33.

Present, his honor E. C. Billings, judge.

The demurrer to the supplemental & amended petition was called for trial. J. L. Bradford, for plaintiffs; J. W. Gurley, ass't dist. att'y,
25 for defendants. And after hearing the pleadings & argument the court took time to advise.

Demurrer sustained & supp'l & amended petition dismissed.—Extract from minutes.

SATURDAY, *April* 15*th*, 1876.

JOHN WATKINS & AL. *vs.* THE UNITED STATES. } No. 33.

Present, his honor E. C. Billings, judge.

This cause came on to be heard in the demurrer to the supplemental & amended petition, and was argued by counsel.

On consideration whereof the court finds that said demurrer is well taken.

It is therefore ordered and decreed that the same be sustained and that said supplemental & amended petition be dismissed with costs.

Memorandum of plaintiff's evidence.—Filed April 17*th*, 1876.

HEIRS OF JOHN WATKINS *vs.* THE UNITED STATES. } No. 33. New land-docket.

26 Complainants offer in evidence the following parts of the printed & certified transcript of the record of appeal in the former suit of heirs of James Innerarity vs. The United States, being United States, appellants, vs. The heirs of James Innerarity, numbered 247 on the docket of the Supreme Court of the United States, filed November 12th, 1872, consisting of the following:

Document A, two plans in one ex'ibit, certified by E. W. Foster, surveyor-general of Louisiana, on January 26th, 1871, & by Charles Barnard, register of the U. S. consolidated land-office at New Orleans, on August 8th, 1871, ex'ibiting portions of township 4, 5, & 6 south, of range 1 east, in the late Greensburg dist., La., with the subdivisional surveys of the U. S. in conflict with the protraction of the surveys by Spain of the two tracts comprising the grant of 20,000 arpents to Charles Ramos, & the whole ex'ibiting the area of vacant lands & of land sold or alienated by the United States.

Document B, (p. 11, printed transcript,) containing copies of—

1st. Notice of claim by James Innerarity, executer of William Simpson, filed before the commissioner of land claims west of Pearl
27 River on the 24th July, 1814, presenting the claims of Charles Ramos for 20,000 arpens.

2nd. Two plans of the two tracts comprising said grant of 12,108 and 7,892 arpens respectively, made by V. S. Pintado, sp'h dep. surveyor, and duly recorded.

3rd. The two process verbals, p. 12, 13, of surveys by Pintado, of the two tracts comprising the grant of 20,000 arpens, and of their appraisement, &c.

4th. The Spanish grant, p. 14, 15, and 16, or title in form, of Juan Ventura Morales, intendant-general, &c., to Carlos Ramos, of 20,000 arpens, dated March 5th, 1804.

5th. Sale, p. 15 and 17, from Carlos Ramos to John Watkins & William Simpson of 20,000 arpens in equal portions, dated March 8th, 1804; and

6th. The certificate, p. 17, of Charles Barnard, register, &c., of 24th November, 1871, stating the foregoing are true copies from his records.

Document C, p. 18, 19, 20, 21, 22, & 23, containing a translation into English of, 1st, The two process verbals of survey and appraisement by Pintado accompanying his 2 plans of survey of the grant of 20,000 arpens to Ramos. 2nd. The Spanish grant by Morales to
28 Ramos of the 20,000 arpens, 5th March, 1805. 3rd. Sale from Ramos to Watkins & Simpson of 20,000 arpens of the 8th March, 1804; and 4th, Oath of Thos. E. Evershed, p. 24, translator, to the foregoing translations.

Document D, p. 24 & 25, copy of last will & testament of William Simpson, certified by clerk of 2nd dist. court of the parish of Orleans.

Document E, process verbal, p. 26 & 27, of the opening & proof of the last will & testament of William Simpson, certified as a true copy.

Document F, copy of original act of sale, p. 27, from Charles Ramos to Simpson & Watkins, of 20,000 arpens, dated March 8th, 1805, certified by Andrew Hero, custodian of notarial records.

Document G, p. 28 & 29, affidavit of Henry Gascon, chief cl'k of the surveyor-general of Louisiana, showing the origin of all titles, except sales by the U. S., in conflict with the surveyed grant to Ramos of 20,000 arpens.

Document H, p. 29 & 30, supplemental affidavit of Henry Gascon, chief clerk, and showing dates of titles, except sales, in conflict with the grant to Ramos.

29 Document I, p. 30 & 36, comprising, 1st. The affidavit of E. Woolridge, showing death of Dr. John Watkins and the names and number of his heirs. 2nd. Affidavit, p. 31, of E. R. Hogan, showing death of John Watkins, son of Dr. John Watkins, and the names, number, and ages of his heirs. The two stipulations dated 21st April and 22nd April, 1876.

(Endorsed:) Memorandum of plaintiff's evidence. Filed April 17th, 1876. J. A. Charbonnet, d'y cl'k.

Def'd't's evidence, No. 1. Stipulation.—Filed April 22nd, 1876.

HEIRS OF JOHN WATKINS & AL.
vs.
THE UNITED STATES. } No. 33.

The American State Papers—Public Lands—are admitted to be in evidence, and either party at liberty to refer to them.

J. W. GURLEY,
Ass't U. S. Att'y.
R. H. & J. L. BRADFORD.
Att'ys for Pl't'ffs.

N. ORLEANS, 21*st April*, 1876.

(Endorsed:) Filed April 22nd, 1876. J. A. Charbonnet, d'y cl'k.

30 *Mem. of d'f'd't's evidence.—Filed April 22, 1876.*

No. 1.—Stipulation.

No. 2.—Copy of act of sale by the plaintiff, Mrs. Melanie Bringier Wilson, formerly widow, & the sole legal heir of William Simpson, deceased, through whom she claims title to the land in suit, of all her rights derived from Simpson's succession, to James Innerarity, passed before John Lynd, notary, on 16th day of June, 1813.

No. 3.—Admission attached to copy of said act in regard to its admission in lieu of original, & to the truthfulness of the translation & translation, &c.

No. 4.—Copy of map marked A, annexed to the printed record filed in this suit, entitled "Transcript of Record in Supreme Court of U. S., No. 247, United States, appellants, vs. The Heirs of James Innerarity," with the written admission thereon as to lands within said grant that have been donated by the United States.

(Endorsed:) Filed April 22nd, 1876. J. A. Charbonnet, d'y cl'k.

31 *Stipulation as to maps.—Filed April 22nd, 1876.*

HEIRS OF JOHN WATKINS
vs.
THE UNITED STATES. } No. 33.

It is agreed that the four plans attached to the printed record from the Supreme Court of the United States in the case of United States, appellants, vs. Heirs of James Innerarity, No. 247, and which are endorsed by counsel to that effect, shall be detached from said printed record, and be annexed to and form a part of the transcrip' of appeal, which either party may take to the Supreme Court in the above case of Heirs of Watkins vs. The United States.

22 April, 1876.

J. W. GURLEY,
Ass't U. S. Att'y.
R. H. & J. L. BRADFORD,
Att'ys for Pl'ffs.

(Endorsed:) Filed April 22, 1876. J. A. Charbonnet, d'y cl'k.

Translation. Act of sale of lands by widow Wm Simpson to Ja's Innerarity.—Filed April 22nd, 1876.

Before me, John Lynd, a notary public of this city of New
32 Orleans, duly authorized, and the witnesses hereinafter mentioned, personally came and appeared Mélanie Bringier, widow of William Simpson, and his heir, a major, having the enjoyment of her rights, who declares to have this day sold, ceded, and transferred, from these presents and forever, unto James Innerarity, testamentary executor of the said William Simpson, her husband, all her rights, title, interest, & causes of action which she has & may have in & to the succession of the said W. Simpson, her husband, in the capacity of sole & universal heir, instituted by the said testament, set forth in the instrument of last will and testament of the deceased, under the date of 9th July, 1812, to which she refers, which capacity of heir she has accepted only under benefit of inventory in the sworn statement, as per act before me under date of 23rd February last, so that he may enjoy them & dispose of them from these presents & forever as of a thing belonging to him, putting him from these presents in her place & stead, and giving unto him all the rights which she had &
33 could have in her capacity of sole heir, so that the said James Innerarity may, from these presents, settle the said succession, receive the sums of money due and owing to her, pay those which she will owe and might be made to owe, enjoy them and dispose of them at their will without any restriction, at his risk & peril, & to his benefit, without recourse nor reclamation against the vendor, her heirs, successors, & assigns.

The present sale, cession, & renunciation, made for and in consideration of the sum of two thousand six hundred & twenty dollars & eighty

cents, payable in three notes, made & drawn by the said Innerarity, & endorsed by Andrew Milne, of this city, a merchant, bearing the date of this day, & each one for the sum of eight hundred & seventy-three and $\frac{60}{100}$ dollars, one of which will fall due fifteen days after the 30th of the present month, another one fifteen days the 30th of June, which will be in the year 1814, and the other fifteen days after 30th of June of the year 1815, all of which Widow Mélanie B. Simpson, the vendor,
34 declares having received, being contented and satisfied therewith, and gives good & valid acquittance in favor of the said James Innerarity, purchaser, who, being present at the making of this act, accepts the same in his behalf, at his risk & peril, as is hereinabove mentioned, and in consequence thereof declares to absolutely put himself in the place & stead of the said Mélanie Bringier, Widow Simpson, and that if, in case after settlement had of the commercial & other affairs of whatsoever nature they be of the succession of the said late William Simpson, there should result a deficiency against him, that he can neither claim anything as against nor exercise any right as against said Widow Simpson nor her heirs, and that in any case he consents to make no claim whatsoever either judicially or extra-judicially.

The interested parties, as well of one part as of the other part, having declared to me, the notary, & to the witnesses, that they make this act of their own and free will, without compulsion nor inducement, but
35 because each one of the contracting parties considers that there might result therefrom some advantage for him, and in consequence thereof they want and intend that the said act shall have full force & vigor, renouncing to all laws to the contrary notwithstanding, promising, &c., obligating, &c., &c.

Done & passed in New Orleans, this sixteenth June, 1813, in presence of George Pollock and Paul Louis Bringier, witnesses who have signed with the parties & I, the notary, the year and day as above.

(Signed) Widow MÉLANIE B. SIMPSON.
JA'S INNERARITY.
P. L'S BRINGIER.
GEORGE POLLOCK.
JOHN LYND,
Notary Public.

NOTE.—This act is admitted in evidence in lieu of the original, which is in French, & the translation is admitted to be correct.
22d April, 1876.

J. W. GURLEY, *Ass't U. S. Att'y.*
R. H. & J. L. BRADFORD,
Att'ys for Pl't'ffs.

(Endorsed:) Filed April 22d, 1876. J. A. Charbonnet, d'y cl'k.

Consent to publication of testimony.—Filed April 22nd, 1876.

36 HEIRS OF JOHN WATKINS & ALS.
vs.
THE UNITED STATES.

It is agreed that publication of testimony be considered published, and formal order for the purpose is waived.

J. W. GURLEY, *Ass't U. S. Att'y.*
R. H. & J. L. BRADFORD,
Att'ys for Pl't'ffs.

(Endorsed:) Filed April 22d, 1876. J. A. Charbonnet, d'y cl'k.

Order. Cause fixed.—From the minutes of April 24, 1876.

JOHN WATKINS ET ALS. vs. THE UNITED STATES. } No. 33.

On motion of R. H. & J. L. Bradford, att'ys for the petitioners herein, it is ordered that the cause be fixed for trial on 4th May, 1876, at 11 a. m., and that the U. S. att'y be notified.

Motion to suppress testimony.—Filed April 24th, 1876.

HEIRS OF JOHN WATKINS ET ALS. vs. THE UNITED STATES. } No. 33.

37 Now comes the United States, defendants herein, and moves to suppress so much of the evidence offered by the plaintiffs, and contained in document marked B, as purports to be a copy of a Spanish grant to Charles Ramos, dated 5th March, 1804, by Morales, of 20,000 arpents of lands & plats thereof, on the grounds: 1st, That the originals of the grant and plats should have been produced, and until their absence is legally accounted for copies cannot be substituted. Plaintiffs have neither alleged the loss or destruction of the originals nor attempted to account for their non-production.

J. W. GURLEY,
Ass't U. S. Att'y.

(Endorsed:) Filed April 24, 1876. K. Loew, d'y cl'k.

Order. Cause fixed.—From the minutes of May 16, 1876.

HEIRS OF JOHN WATKINS ET ALS. vs. THE UNITED STATES. } No. 33.

On motion of R. H. & J. L. Bradford, counsel for complainants
38 in the above-entitled suit, it is ordered that the motion to suppress testimony fixed by the defendants herein on the 24 April, 1876, be argued when said cause is heard upon its merits, and it is further ordered that said cause be set down for final hearing upon the merits on Monday 22 inst., at 11 a. m.

Hearing & submission.—Extract from the minutes, May 22, 1876.

HEIRS OF JOHN WATKINS vs. THE UNITED STATES. } No. 33.

This cause was called for trial on the motion to suppress testimony and on the merits—R. H. & J. L. Bradford, for complainants; J. W. Gurley, ass't U. S. att'y for d'f'd'ts.—

And, after hearing the pleadings, evidence, and argument, the court took time to advise.

Decree.—Filed Dec'r 4, 1876.

HEIRS OF JOHN WATKINS ET ALS.
vs.
THE UNITED STATES. } No. 33.

39 This cause came on to be heard at the last term on the merits, and on the motion of defendants to suppress part of the evidence offered by the complainants herein, & was taken under advisement by the court.

Whereupon, the law and the evidence being duly considered, it is now ordered, adjudged & decreed, that the sale of the Intendant Morales to Carlos Ramos of March 5th, 1804, for twenty thousand arpens of land, is a valid, just, & binding title against the United States. And the complainants, Elize Watkins, Henry Watkins, Lucie Watkins, (wife of E. R. Hogan,) and John Watkins, as the sole heirs of Dr. John Watkins, dec'd, having proved to the satisfaction of the court that they are entitled to one undivided half of said land; and it having been further proved to the satisfaction of the court that the whole of said twenty thousand arpens of land have been disposed of by the U. S. by sale and by donation as shown on plaintiff's map marked "A," prior to the institution of this suit, except section two, in township five south, of range two east, in the late Greensburg district, Louisiana, containing
40 twenty-six and seventy-two hundredth acres, which amount being taken from 17,014 acres, the equivalent of twenty thousand arpens, leaves sixteen thousand nine hundred and eighty-seven $\frac{28}{100}$ acres disposed of by the United States as aforesaid, it is further ordered, adjudged & decreed, that the said Elize, Henry, Lucie, and John Watkins are entitled to receive from the United States a patent for one undivided half of said section two, in township five south, of range two east, & for the residue of their undivided half of said lands, being eight thousand, four hundred & ninety-three $\frac{64}{100}$ ($8,493\frac{64}{100}$) acres, they are entitled to have & recover from the United States certificates of location, locatable upon any of the public lands of the United States liable to private entry at one dollar and twenty-five cents per acre, according to the sixth section of the act of Congress approved June 22, 1860.

And the complainants, Melanie Bringier, widow of James F. Wilson, decd, formally widow of William Simpson, dec'd, having, in the
41 opinion of the court, transferred & conveyed such right, title & interest, if any, which she may have had to any portion of said twenty thousand arpens, it is further ordered, adjudged, & decreed that there be judgment against her, & that the petition as to her be dismissed.

It is further ordered that the motion to suppress be overruled.

(Signed) EDWARD C. BILLINGS,
Judge.

(Endorsed:) Filed Dec'r 4, 1876. R. Loew, dy, cl'k.

Appeal by complainant.—From the minutes of Dec'r 9, 1876.

HEIRS OF JOHN WATKINS ET ALS.
vs.
THE UNITED STATES. } No. 33.

On motion of R. H. & J. L. Bradford, counsel for complainants in the above-entitled cause, & on representing to the court that complainants are aggrieved by that part of the decree herein rendered which is against

the complainant, the widow of James F. Wilson, born Melanie
42 Bringier, & that they desire an appeal therefrom, returnable to the next term of the Supreme Court of the United States, according to law.

It is therefore ordered that said appeal be allowed, as prayed for, on giving bond & security in the sum of $250.

Appeal by defendant.—From the minutes of January 10th, 1877.

HEIRS OF JOHN WATKINS
vs.
THE UNITED STATES. } No. 33.

On motion of J. R. Beckwith, U. S. att'y for the district of Louisiana, and on representing that the defendants herein are aggrieved by the decree rendered against them on 4th Dec'r, 1876, in favor of the said plaintiffs, the heirs of J. Watkins, and are informed that there is error therein to their prejudice, and desire to appeal therefrom to the Supreme Court of the United States: It is ordered that an appeal be allowed, as prayed for, returnable to the next October term of said court.

Reasons for reducing bond.—Filed Jan'y 10, 1877.

43 United States district court, district of louisiana.

HEIRS OF JOHN WATKINS
vs.
THE UNITED STATES.

Application is made to vacate the order requiring the appellant to give bond. The statute, vol. 12, page 88, section 11, provides that an appeal may be had without affidavit, or security, other than for costs. I cannot come to the conclusion that that gives the court any discretion to dispense with security for costs. By implication, it makes it incumbent upon the court to require security to that extent. I must therefore refuse the application to vacate the former order, but will allow the order to be amended so as to require only security to the extent of $150.

(Endorsed:) Filed Jan'y 10, 1877. K. Loew, d'y, cl'k.

Motion & order amending order of appeal.—From the minutes of Feb'y 10, 1877.

44 HEIRS OF JOHN WATKINS ET ALS.
vs.
THE UNITED STATES. } No. 33.

On motion of R. H. & J. L. Bradford, counsel for complainants in the above-entitled cause, & on suggesting to the court that the motion, &c., for order for an appeal heretofore granted & entered on the minutes in said cause, should have been made by & granted for the use & benefit of the complainant, Melanie Bringier, widow of William Simpson, alone, who alone appeals from that part of the decree heretofore rendered in said cause, which is adverse to her interest:

It is ordered that said motion & order be so amended that Melanie Bringier, widow as aforesaid, shall alone appear as an appellant from said decree, & required to give bond & security for costs.

Appeal bond.—Filed Feb'y 10 ,1877.

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States.

45 HEIRS OF JOHN WATKINS ET AL.
vs.
THE UNITED STATES. } No. 33. Appeal bond.

Know all men by these presents, that we, M. B. Wilson, widow of W'm Simpson, deceased, & of James F. Wilson, deceased, as principal, and J. L. Bradford as surety, are held and firmly bound unto John Devonshire, clerk of the district court of the United States for the district of Louisiana, in the sum of one hundred and fifty dollars, to be paid to the said John Devonshire, clerk, as aforesaid, for the payment of which, well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seal, and dated at New Orleans, the 31st day of January, 1877.

Whereas the above-named M. B. Wilson, widow, as aforesaid, has appealed to the next term of the Supreme Court of the United States, from a final judgment of the district court of the United States
46 for said district, rendered against her on the 4 day of December, 1876, and signed on the 8 day of December, 1876, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute her appeal to effect, and answer all damages and costs, and satisfy whatever judgement may be rendered against her if she fail to make her appeal good, then this obligation to be void, otherwise the same shall be and remain in full force and effect.

[L. S.]	(Signed)	M. B. WILSON.
[L. S.]	"	J. L. BRADFORD.
[L. S.]	"	(Erased.)

Signed, sealed, and delivered in the presence of—
(Signed.) JOHN KAP.
Approved:
EDWARD C. BILLINGS, *Judge.*

Eliza Watkins' name erased before approval.
E. C. B.

James L. Bradford, surety on the within appeal-bond, being duly sworn, says that he resides in this city, and is worth the sum of $150, over and above his just debts and liabilities.
(Signed) J. L. BRADFORD.

Sworn to and subscribed before me this 31 day of Jan'y, 1877.
K. LOEW, *U. S. C.*

47 (Here follow 4 maps, marked page 47.)

48 UNITED STATES OF AMERICA:

District court of the United States for the district of Louisiana.

CLERK'S OFFICE.

I, John Devonshire, clerk of the district court of the United States for the district of Louisiana, do hereby certify that the foregoing 47 pages

contain and form a full, true, complete, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Heirs John Watkins & als. vs. The United States, including the maps, which, by consent of counsel, are hereto attached in original, said case bearing the No. 33 of the land-docket.

[SEAL.] J. DEVONSHIRE, *Clerk.*

I, Edward C. Billings, United States judge for the district of Louisiana, do certify that John Devonshire, whose named is signed to the above certificate as clerk of the district court of the United States for the district of Louisiana, was, at the time of signing said certificate, and
49 is now, the clerk of said court, that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this day of March, 1877.

EDWARD C. BILLINGS,
U. S. Judge.

(Indorsement on cover:) No. 668. The United States, appellants, vs. The Heirs of John Watkins. Louisiana D. C. U. S. Filed 21st March, 1877.

REC. 668—2

In the Supreme Court of the United States.

OCTOBER TERM, 1877.

THE UNITED STATES
vs.
HEIRS OF JNO. WATKINS.
[MELANIE BRINGIER WILSON
vs.
THE UNITED STATES.]
} No. 668.

CROSS-APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

In the Supreme Court of the United States.

OCTOBER TERM, 1877.

THE UNITED STATES
vs.
HEIRS OF JNO. WATKINS.
[MELANIE BRINGIER WILSON
vs.
THE UNITED STATES.]
} No. 668.

CROSS-APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

"The heirs of Watkins" and Mrs. Wilson brought this suit in the court below, in the form of a joint petition praying for the confirmation of a Spanish grant to one Ramos, under the act of 1860, ch. 188 (12 Stat., 85), extended by the act of 1872, ch. 171 (17 Stat., 378).

The land alleged to have been granted consisted of 20,000 arpents in what is at present the parish of East Baton Rouge, Louisiana. It is the same tract that was claimed by the heirs of Innerarity in the case reported, 19 Wallace, 595. In that case Innerarity's heirs having discovered in the progress of the suit, as was thought, that the heirs of Watkins were the true owners of the land, asked that a decree should be made in favor of the latter; this was refused, and thereupon the latter resorted

to the present action. In the course of its prosecution it has been discovered, apparently, that after all one-half of the tract really belongs to the Innerarity heirs, and now an application is made which is the converse of that refused in 19 Wallace (above); *i. e.* Mrs. Wilson asks to be treated as suing on behalf of the Innerarity heirs.

The title of the petitioners is traced as follows:

1. Grant to Carlos Ramos by Morales, dated March 5, 1804.

2. Sale by Ramos to William Simpson and John Watkins *in equal undivided parts*, dated March 8, 1804.

3. Devise, in 1812, by *Simpson* to his wife, *the petitioner Melanie*, who subsequently married one Wilson.

4. Death of *Watkins* in 1812, and inheritance by his son, John Watkins, who died in 1864, leaving as his heirs *the petitioners other than Mrs. Wilson.*

In March, 1876, Mrs. Wilson filed a *supplemental and amended* petition (p. 4) by which she admitted that in 1813, about the 16th of June, she had sold her share in the Ramos land to James Innerarity, now dead, and prayed that she might be allowed to prosecute the suit for the sole use of his heirs. A translation of the *act of sale* to Innerarity is also given in the record (p. 11).

This amended petition, having been demurred to, was dismissed by the court below (p. 9).

The final decree below *rejected Mrs. Wilson's claim*, and *confirmed that of the heirs of Watkins* for one-half of the grant to Ramos. Both parties to the action thereupon appealed.

This case, so far as appealed by the United States, calls for no remarks other than what have already been submitted at this term in the brief for the United States in Bouligny's case, No. 413.

The copy of the grant to Ramos, introduced by the petitioner, comes from a depositary duly authorized, as it seems, by the act of 1812, cited in the brief upon the other side, both to record originals and to give certified copies.

As regards the *amended* petition, and the appeal by Mrs. Wilson, it is to be said that however unfortunate it may be for the Innerarity heirs that they did not discover the act of sale by Mrs. Wilson in time to make use of it in their former suit against the United States, this is no ground upon which successfully to contend that they shall have the benefit of it here. *Leges vigilantibus, non dormientibus subveniunt.*

Inasmuch as by inadvertence the record in the Innerarity case, to which reference is made in the present record, has not been printed in that connection, so much thereof as seems material to the understanding of the case now before the court is presented below.

S. F. PHILLIPS,
Solicitor-General.

APPENDIX.

UNITED STATES CONSOLIDATED LAND OFFICE,
New Orleans, Louisiana.

I, Charles Barnard, register, do certify that the foregoing sixteen pages & this page [being copies in Spanish of the *following* papers translated by Evershed] having been carefully compared with the record in this office, are found to contain a true, exact, and literal copy of the two process-verbal & grants of 20,000 arpents made to Carlos Ramos by Spain, as the same appear of record in book C No. 2 (No.), of Charles O. Cosby's records.

And I further certify that the notice of claim and the two plats of survey preceding the said sixteen pages are true, literal, and exact copies of the original record of said notice & of said plats, numbered respectively 1702 and 1703, being plats of the two tracts of the 20,000 arpen's, grants to Charles Ramos, July 22d, 1871.

CHARLES BARNARD,
Register.

And I do hereby further certify that the preceding copy of the sale or transfer from Carlos Ramos to Simpson & Watkins of the twenty thousand arpents of land, as passed before Narcisse Brotin, notary public, &c., on the 8th of March, 1804, is a true, literal, and correct copy of the same, as it appears of record in my office in book C No. 3, being the original record-book of the commissioner, James O. Cosby.

New Orleans, La., Nov. 24th, 1871.

CHARLES BARNARD,
Register.

Document C.—Translation.—Filed May 23d, 1872.

Don Vicente Pintado, surveyor-general of Western Florida: I (do) certify that in the book D K 4, under

my charge, at folio 102, bearing the number 1702, is to be found the above figurative plan, and at the same folio and opposite side thereof the proceedings or return of survey registered by my predecessor, Captain Charles Trudeau, the purport whereof is literally as follows:

Don Vicente Pintado, captain of militia cavalry, and deputy surveyor of this province: I (do) certify that there has been measured and the boundaries defined, in favor of D'n Carlos Ramos, a tract of land of *twelve thousand four hundred and eight* superficial arpents, measuring, by the perch of Paris of eighteen feet of the said city, counting one hundred superficial perches to the arpent, agreeably to the agrarian custom in this province; which said tract of land, situated in the new settlement (establicimiento) of Saint Helena, jurisdiction of Baton Rouge, and on the west bank of the river Saint Helena, or Amit, at twenty-six miles and three-fourths to the south of the boundary-line between these dominions of His Majesty and those of the United States of America, bounds on the north with lands occupied by Patricio Forbes and vacant lands, on the south with those occupied by Don Eduardo Ross and waste (uncultivated) lands, on the east with the aforesaid river Amit and with the Santa Rosalia Creek, commonly called Sandy Creek, and on the west with vacant lands, as is more clearly shown by the plan (on the opposite side of the folio), wherein is delineated the tract of land, having traced with carmen' (red ink) that which appertains to it; with also the dimensions of its sides (boundaries) set down in lineal perches, the directions of the boundaries according to the compass, the declination of which is N. E., the trees and mounds which serve as land-marks, & other natural and artificial limits. These said twelve thousand one hundred and eight superficial arpents form part of the twenty thousand arpents which the party in interest *bought* of the royal treasury (real hacienda), and which the señor intendant-general ordered to be measured and valued agreeably to his order of the first of October last, addressed to the Señor Don Carlos de Grandpré, colonel of the royal army, civil and military governor of this post (plaza), and subdelegate of the

APPENDIX.

UNITED STATES CONSOLIDATED LAND OFFICE,
New Orleans, Louisiana.

I, Charles Barnard, register, do certify that the foregoing sixteen pages & this page [being copies in Spanish of the *following* papers translated by Evershed] having been carefully compared with the record in this office, are found to contain a true, exact, and literal copy of the two process-verbal & grants of 20,000 arpents made to Carlos Ramos by Spain, as the same appear of record in book C No. 2 (No.), of Charles O. Cosby's records.

And I further certify that the notice of claim and the two plats of survey preceding the said sixteen pages are true, literal, and exact copies of the original record of said notice & of said plats, numbered respectively 1702 and 1703, being plats of the two tracts of the 20,000 arpen's, grants to Charles Ramos, July 22d, 1871.

CHARLES BARNARD,
Register.

And I do hereby further certify that the preceding copy of the sale or transfer from Carlos Ramos to Simpson & Watkins of the twenty thousand arpents of land, as passed before Narcisse Brotin, notary public, &c., on the 8th of March, 1804, is a true, literal, and correct copy of the same, as it appears of record in my office in book C No. 3, being the original record-book of the commissioner, James O. Cosby.

New Orleans, La., Nov. 24th, 1871.

CHARLES BARNARD,
Register.

Document C.—Translation.—Filed May 23d, 1872.

Don Vicente Pintado, surveyor-general of Western Florida: I (do) certify that in the book D K 4, under

my charge, at folio 102, bearing the number 1702, is to be found the above figurative plan, and at the same folio and opposite side thereof the proceedings or return of survey registered by my predecessor, Captain Charles Trudeau, the purport whereof is literally as follows:

Don Vicente Piutado, captain of militia cavalry, and deputy surveyor of this province: I (do) certify that there has been measured and the boundaries defined, in favor of D'n. Carlos Ramos, a tract of land of *twelve thousand four hundred and eight* superficial arpents, measuring, by the perch of Paris of eighteen feet of the said city, counting one hundred superficial perches to the arpent, agreeably to the agrarian custom in this province; which said tract of land, situated in the new settlement (establicimiento) of Saint Helena, jurisdiction of Baton Rouge, and on the west bank of the river Saint Helena, or Amit, at twenty-six miles and three-fourths to the south of the boundary-line between these dominions of His Majesty and those of the United States of America, bounds on the north with lands occupied by Patricio Forbes and vacant lands, on the south with those occupied by Don Eduardo Ross and waste (uncultivated) lands, on the east with the aforesaid river Amit and with the Santa Rosalia Creek, commonly called Sandy Creek, and on the west with vacant lands, as is more clearly shown by the plan (on the opposite side of the folio), wherein is delineated the tract of land, having traced with carmen' (red ink) that which appertains to it; with also the dimensions of its sides (boundaries) set down in lineal perches, the directions of the boundaries according to the compass, the declination of which is N. E., the trees and mounds which serve as land-marks, & other natural and artificial limits. These said twelve thousand one hundred and eight superficial arpents form part of the twenty thousand arpents which the party in interest *bought* of the royal treasury (real hacienda), and which the señor intendant-general ordered to be measured and valued agreeably to his order of the first of October last, addressed to the Señor Don Carlos de Grandpré, colonel of the royal army, civil and military governor of this post (plaza), and subdelegate of the

general intendency (intendencia) general, by whom it was to me communicated. And said señor governor and subdelegate having appointed as experienced appraisers Don Pedro Allin and Don Felix Bernardo Dumontier on behalf of the royal treasury, the agent of the party in interest, which agent is Don Samuel Fulton, appointed on his part Felipe Hicky and Don Bernardo Dubroca, as appears from the proceedings thereof, which said appraisers, assisted by the witnesses, Valentin Thomas Dalton and Louis Delatte, did appraise the aforesaid tract of land at the rate of *twelve cents for each superficial arpent*, all of which having been considered by the agent of the party in interest, he conformed himself thereto and received the said tract of land as purchased, and acknowledged himself as *put in possession thereof* to his satisfaction, and, with the appraisers and witnesses, did sign these presents, in Baton Rouge, in the sixteenth day of the month of December, of the year one thousand eight hundred and three.

Agent of Ramos,		SAMUEL FULTON.
Surveyor,		VICENTE SEBASTIAN PINTADO.
Appraisers of Spain,	of	PEDRO ALLIN. FELIX BERNARDO DUMONTIER.
Appraisers of Ramos,	of	FELIPE HICKEY. BERNARDO DUBROCA.
Witnesses,		V. T. DALTON. LOUIS DELATTE.

Entered in the present book, in accordance with the decree of the señor intendant-general, under date of the present month of January, of the current year. Fifteen' of February, of the year one thousand eight hundred and four.

My (rubrica) paraphe.

This agrees with the portion which is to be found in said book to which I refer; and, at the request of the interested party, I give these presents in the post (plaza), of Pensacola, on the twenty-third day of the month of September, of the year one thousand eight hundred and seven.

VICENTE SEBAS'N PINTADO.

Don Vicente Sebastian Pintado, surveyor-general of the Western Florida: I (do) certify that in the book D K 4, under my charge, at folio 103, bearing the No. 1703, is to be found the above figurative plan, and at the same folio and opposite side thereof the proceedings or return of survey registered by my predecessor, Captain Don Carlos Trudeau, the purport whereof is literally as follows:

Don Vicente Sebastian Pintado, captain of militia cavalry, and deputy surveyor of this province: I (do) certify that there has been measured, and the boundaries defined in favor of Don Carlos Ramos, a tract of land of *seven thousand eight hundred and ninety-two* superficial arpents, measured by the perch of Paris, of eighteen feet of the said city, counting one hundred superficial perches to the arpent, agreeably to the agrarian custom in this province, which said tract of land, situated in the jurisdiction of Baton Rouge, in the new settlement of S'ta Helena and on the west bank of the creek S'ta Rosalia, commonly called Sandy Creek, at three short miles from its junction with the Amit, the souther'most portion of the tract, and the norther'most portion at twenty-two miles to the south of the thirty-one decrees, or boundary-line between these dominions of His Majesty and the American possessions, bounds on the east with the aforesaid creek S't Rosalia, and on the other sides with vacant lands, as is seen represented in the preceding plan, showing likewise the shape and figure of the tract of land with its dimensions in the lineal perches, its courses by the compass, the declination being N. E., the trees & mounds which serve as land-marks, and the other natural & artificial limits. These said seven thousand eight hundred and ninety-two arpents form part of the twenty thousand arpents, which the interested party bought of the royal treasury, and which the señor intendant-general ordered to be measured & appraised, in his order of the first of October last, which was communicated to me by the Señor Don Carlos De Grand Pré, colonel of the royal army, civil and military governor of this post, and sub-

delegate of the general intendency, by which said señor were appointed as experienced appraisers, on behalf of the royal treasury, Don Pedro Allin and Don Felix Bernardo Dumontier; and Don Samuel Fulton, agent of the party in interest, having appointed on his part, Don Felipe Hickey and Don Bernardo Dubroca, these conjointly with the first and with the attendance of the witnesses, Valentin Thomas Dalton and Louis Delat, did appraise said tract of land at the rate of *eleven cents* per each superficial arpent. All of which having been considered by Don Samuel Fulton, he *conformed himself* thereto, and *received* said tract of land as purchased, and acknowledged himself as put in possession thereof to his entire satisfaction, and with the appraisers and witnesses did sign these presents in Baton Rouge, on the twelfth day of the month of December, of the year one thousand eight hundred and three.

SAMUEL FULTON.
VICENTE SEBASTIAN PINTADO.
PEDRO. ALLIN.
FELIX BERNARDO DUMONTIER.
FELIPE HICKY.
BERNARDO DUBROCA.
V. T. DALTON.
LOUIS DELAT.

Entered in the present book in accordance with the decree of the señor intendant-general, under date of *tenth of January* of the present year. February fifteenth, of the year one thousand eight hundred and four. This agrees with the portion which is to be found in said book, to which I refer, which portion is found paraphed (rubricada) by the forementioned captain, who was surveyor-general, and at the request of the party interested I give these presents in the post of Penzacola, on the twenty-third day of the month of September, of the year one thousand eight hundred and seven.

VICENTE SEBASTIAN PINTADO.

Juan Ventura Morales, comptroller of the army, intendant, and superintendant ad interim of the province

of West Florida, officer intrusted with the adjustment and settlement of the affairs of the royal treasury in the province of Louisiana.

Whereas Don Carlos Ramos, has presented himself before this tribunal, soliciting the grant of twenty thousand superficial arpents of land in the district of Baton Rouge, offering for its full amount, by appraisement, *one-third of the value in cash, the other at the end of six months, and the balance at one year from the issuing of the title*, given the sufficient securities to the royal treasury, in order to give rise to these proceedings (expediente), I ordered that there should be made out by the secretary's office a certified copy of the official letter addressed by this intendency to the commissioners for the transfer of this province, also of the final result of the application which Don Thomas Urquhart made to purchase fifty thousand arpents, and of the answer which their excellencies (señorias) (said commissioners) gave, so that the same should be submitted to the (señor fiscal) officer of the exchequer, that the indicated copies being made out; and said señor fiscal having acquiesced in the application requiring that the same should be transmitted to the s'or Colonel Don Carlos de Grand Pré, governor of Baton Rouge, so that he (said governor) might appoint two experienced citizens, who, in the character of appraisers, with two others, to be designated by the purchasor, and with the surveyor and two assisting witnesses, should proceed to the appraisement, survey, and demarcation of the twenty thousand arpents of land, and that they should make return of the proceedings thereof for the issuing of the title, in accordance with the conditions proposed by the petitioner, for which purpose it was provided that there should be copied in connection therewith the evidence of the decree, by which was referred to the advice of the señor auditor of war (auditor de gerra) the proceedings had by the aforesaid Urquhart in relation to his aforementioned application, and also a copy of the decision rendered therein by said s'or (auditor), and this being fulfilled I ordered the de-

cree asked for by the s'or fiscal to be sent to the governor of Baton Rouge, with insertion of the deliberation thereon, and in consideration thereof, all that is necessary having been done by this sub-delegation, and there having been made the measurement, demarcation, and survey of the twenty thousand superficial arpents, which turned out to be made in two parcels, distinc' & separate, the first plan comprising *twelve thousand one hundred and eight arpents*, and the second, seven thousand eight hundred and ninety-two, they were appraised, those of the first parcel at *ten* cents each arpent, and these of the second at *eleven* cents, with the necessary and proper formalities, which I ordered transmitted to the s'or fiscal, who answered and required that the value of these lands should be adjusted, and that the payment thereof being made in the royal coffers, that the title should be delivered; and that, consequently, I further directed to refer these proceedings to the surveyor-general Don Carlos Trudeau, for him to examine the operations of the aforesaid Don Vicente Pintado, *and if he found them correct* he should record in his books the plans which comprise the twenty thousand superficial arpents petitioned for by the aforementioned Don Carlos Ramos, and that he should be provided with the duplicates, so as to annex them to this title; all of which having been done, I directed, by a *decree of the 21st of February, of the present year*, that there should be made by the minister of the royal treasury the liquidation or adjustment of the value at which were appraised the aforementioned twenty thousand arpents of land, and it appearing by the *receipt* of payment that the collection was made in the royal coffers, of the *third offered to be paid in cash*, with the corresponding half-yearly tribute (media annata) and transportation, and *the warranty in writing for the balance being executed* in accordance with the promise of the purchasor, I also directed that there should be delivered to him the title of property in due form; that under these circumstances, he, D'n Carlos Ramos, did propose to pay in the royal coffers the whole value of the twenty thousand arpents in certificates of credit

issued by this ministry, asking that they be admitted in payment, which I left to the reference of the s'or fiscal, who answered that he approved the proposition of the aforementioned Don Carlos Ramos, and that immediately after the disposition of these measures the whole amount should be admitted in the proposed certificates of credit, and that the receipt of payment should be drawn up, and that there should be taken due notice of that which was decreed on the before-mentioned twenty-first of February referred to; that by *the certificate of the ministry* of royal hacienda of the *first instant* it appears that the aforesaid D'n *Carlos Ramos paid into the royal coffers* seventeen thousand one hundred and twenty-two (reales) bitts, and seventeen maravedis of silver, sixteen thousand six hundred and thirty-one and a half thereof for the full amount of the twenty thousand arpents, all at the rate of ten cents for the twelve thousand one hundred and eight (arpents) and at eleven cents for the seven thousand eight hundred & ninety-two (arpents) which are embraced in the two surveys & plans as made out, and the remaining four hundred & ninety-one (reales) bitts for the decree of 2½ per cent. half-yearly tribute, and 18 per cent. for its transportation to Spain. In virtue whereof, and it appearing from the first plan given by the surveyor, Don Carlos Trudeau, marked with the No. 1702, that twelve thousand one hundred and eight arpents of land, part of the twenty thousand, are situated in the new settlement of S'ta Helena, jurisdiction of Baton Rouge, and on the west bank of the river Saint Helena or Amit, at 26 and three-fourths miles to the south of the boundary-line between the dominions of His Catholic Majesty and the United States of America, bounding on the north by lands occupied by Patricio Forbe, and vacant lands; on the south by those owned by Edouardo Ross, and uncultivated lands; on the east by the said river Amit, and by the creek of Santa Rosalia, called Sandy Creek; and on the west by vacant lands. And it appearing, also, from the second plan, No. 1703, comprising seven thousand eight hundred and ninety-two arpents, which complete

the twenty thousand arpents in question, that it is shown that these are situated in the district of Baton Rouge and new settlement of Santa Helena, on the west bank of the creek Santa Rosalia, called Sandy Creek, at three short miles from the junction with the Amit, the southernmost portion of the tract, and the northernmost (portion) at twenty-two miles to the south of the thirty-one decrees or boundary-line referred to, bounding on the east with the aforesaid creek of Santa Rosalia, & with vacant lands on the other side. And for the establishing of, the knowing of, and better understanding, the two indicated parcels of land, their boundaries, location, courses, & distances, there shall be appended the two plans, embracing the twenty thousand mentioned arpents.

Now, therefore, and in conformity with the authority which is conferred upon me in the name of the King our lord (whom God may preserve), I grant to the said mentioned Don Carlos Ramos the twenty thousand superficial arpents of land he has asked for, bought and paid for, to the royal treasury, being the same (twenty thousand arpents) which are embraced in the measurements & plans in question, agreeably to the boundaries designated, the localities, courses, and distances which have been mentioned, and of which the plans themselves make mention, so that as his own, for having bought them and paid for them, the said designated twenty thousands arpents, himself, to the royal treasury, he may posses', cultivate, and dispose of them at his pleasure, for which purpose I impart to him entire and direct sovereignty over them. And I authorize him to take the possession wherein I place and maintain him *without prejudice to any third party who may have a better right*, with the condition that he is to comply with what is directed in the instruction upon lands, which this intendancy made and published on the 17*th of July*, 1799, of which I give him warning that he may not plead ignorance.

In faith of which I ordered these presents to be made out, signed by my hand, sealed with my coat of arms, and countersigned by the undersigned notary of the

royal (hacienda) treasury, who, as well as the principal comptroller, will make a record thereof.

Given in New Orleans, on the fifth of March, 1804.

JUAN VENTURA MORALES.

By order of the s'or intendant:

CARLOS XIMENES.

Record was made of the foregoing title at p. 61, 62, & 63, of the book of titles, destined for registry of titles of this nature.

CARLOS XIMENES.

Record was made by the principal comptrollership of the army of the ministry of the royal treasury under our charge, of the foregoing title, and it was entered at folio' 44 & 45 of the book destined to this purpose.

New Orleans, *6th of May*, 1804.

MANUEL RAMIREZ.
GILBERTO LEONARD.

Before me, Narcisse Broutin, notary public of the *United States of America*, in the city of New Orleans, and the witness hereinafter named, was present, Charles Ramos, esq., an *inhabitant of this city*, who has, by these presents, sold, ceded, and made over from now and forever, and promises warranty from all troubles, gifts, debts, mortgages, evictions, substitutions, or other hindrances whatsoever to William Simpson and John Watkins, esqrs., herein present and accepting for themselves, their heirs or assigns, a tract of land of twenty thousand arpents of superficies, situated in the district of Baton Rouge, new settlement of S'ta Helena, adjoining, by the northern portion, to the lands occupied by M'r Forbe and vacant lands, and by the southern portion, to the lands of Edward Ross, by the eastern portion with the river Amit, and to the rivulet of S'te Rosalie, called Sandy Creek, and by the west to vacant lands, which tract of land belongs to the said vendor for having bought the same from His Catholic Majesty, as per the *titles, which he has handed over to the pur-*

chasors, for them, the said Simpson and Watkins (les dits sieurs), to have, and to hold, and to dispose of the said land as of a thing to them belonging, from this day forever, the said sale being made for and in consideration of the price and the sum of *twenty thousand dollars*, which (les dits sieurs) the said Simpson and Watkins, purchasors, have, at this very time, completed in *coined dollars, of the whole of which*, the *said vendor*, who has received them, *gives acquittance* & discharge to the said purchasors, making over unto them all rights of property and other rights which he has and may have to the said land now sold, of which he has divested and dispossessed himself for the use and benefit of the said purchasors, their heirs, successors, and assigns, designing that they be put in possession by the person to whom it shall belong to do so, and constituting for that purpose the bearer of these presents, for it was thus done, ordained, understood between the parties, who, for the execution of these presents & of the matters appertaining thereto, have elected their domicile each one at his residence aforesaid, at which place, notwithstanding, &c., &c., promi's it, &c., oblig., &c., &c., renouncing, &c., &c.

Done and passed in the office this eight' March, 1804, and the twenty-eighth years of the Independence of the United States of America, in presence of Antoine Fromentin and Felipe Guiranto, esqrs., residents, and who, being present, here signed with the appearers.

In testimony whereof I, said notary, have affixed my signature and the seal of my office this day and year aforesaid.

CHARLES RAMOS.
W'M SIMPSON.
WALKINS.
GUIRANTO.
FROMENTIN.
NARCISSE BROUTIN,
Notary Public.

This present copy delivered in conformity with the original remaining in my hands.

New Orleans this 8th March, 1804, and the twenty-eighth year of the Independance of the United States of America.

[SEAL.] NARCISSE BROUTIN,
Notary Public.

STATE OF LOUISIANA,
Parish of Orleans:

On this 22nd day of July, A. D. 1871, before me personally came M'r Thomas E. Evershed, who, being duly sworn, doth depose and say that he is familiar with the Spanish and French languages, and competent to make true and correct translations from the same into English. That the foregoing eighteen pages and this page, contain a true, correct, and literal translation of the Spanish and French documents relating to the Spanish grant of 20,000 arpents to Charles Ramos, as certified by the register of the consolidated land-office.

THOMAS E. EVERSHED.

Sworn to and subscribed before me this 22nd of July, 1871.

(Signed) K. LOEW, *U. S. C.*

(Endorsed:) No. 16. Heirs of James Innerarity *vs.* The United States. "C." Translation into English of two process-verbals of Pintado, accompanying his 2 plans of survey. Spanish grant of Morales to Charles Ramos of 20,000 arpents of 5th March, 1804. Sale from Ramos to W'm Simpson and John Watkins of $20,000 a'p'ts on March 8th, 1804. Oath of Thomas E. Evershed, translator, of 22nd July, 1871. Filed May 23rd, '72. J. A. Charbonnet, d'y cl'k.

Document D.—Filed May 23d, 1872.

State of Louisiana, second district court for the parish of Orleans.

Last will and testament of W'm Simpson, deceased.

Filed January 16th, 1813. "Ne varietur."
(Signed) MOREAU LISLET, *Judge.*

In the name God, Amen. I, William Simpson, of the city of New Orleans, merchant, a native of the town of Savannah, in the State of Georgia, do hereby make this my last will and testament in manner following, viz:

* * * * * * *

3rdly. I give, devise, and bequeath unto my beloved wife Melanie Bringier Simpson and her heirs, all the estate and property, of whatever nature or description, of which I may be possessed at the time of my death, with the exception of a few trifling legacies hereafter mentioned. * * * * * *

[This will was duly executed and proved. Innerarity Record, pp. 24 to 27.]

Document G.—Filed May 23d, 1872.

HEIRS OF JAMES INNERARITY & AL. *vs.* THE UNITED STATES. } No. 16 of the new land-docket.

HENRY GASCON, witness for complainants in the above-entitled cause, being duly sworn, deposes, with reference to the maps or plans now before him marked "A," certified by E. W. Foster, surveyor-general of Louisiana, on the 26th July, 1871, representing two tracts comprising 20,000 arpents of land claimed to be derived from the Spanish Government by Carlos Ramos (vol. 3, Amer. State Papers, page 54, under No. 15, Duff Green's edition), as follows:

That he is the chief clerk of the surveyor-general's office of Louisiana, and has been for some time; that for many years he was employed as a clerk in said office; that he is perfectly familiar with its records, maps, &c., and the manner of adjusting, surveying, and platting private land-claims in Louisiana; that the following table or exhibit is a true and correct copy of the origin of all the private land-claim or portions of land-claims embraced within the two plans aforementioned as comprising claim of Ramos; that is to say:

1st. Having immediate reference to the plan of 7,892 arpens—that section 48, T. 4 S., R. 2. E., Greensburg district, in the name of Philip Lewis; section No. 49, in same township; and section No. 57, is T. 5 S., R. 2 E., in name of Joshua Wining; section 52, in T. 4 S., R. 2 E., and section 58, T. 5 S., R. 2 E., in the name of Tho's Young; & section 65, T. 5 S., R. 2 E., in name of John Forbes, have all been surveyed and located as donations for 640 acres each, and confirmed by 3rd section of act of Congress of March 3rd, 1819. (U. S. Statutes at Large, vol. 3, page 530.)

That section 51, in T. 4 S., R. 2 E., and section No. 59, in T. 5 S., R. 2 E., in name of Jacob Carpenter; and section 60, T. 5 S., R. 2 E., in favor of Leonard Forbes; and section 61, T. 5 S., R. 2 E., in name of Jepthta Douglass, have all being surveyed and located as donations for 640 acres each, and confirmed by 3d section of act of May 8th, 1822. (U. S. Statutes at Large, vol. 3, page 707.)

2d. And having immediate reference to the larger plan, 12,408 arpents:

That section 41, T. 5 S., R. 2 E., has been surveyed and located as a donation of 640 acres, under the act of August 6th, 1846, in favor of Amos Thames.

That section 42, T. 5 S., R. 2 E., has been surveyed and located as a donation, under the act of March 3d, 1819, in favor of Henry Collins. This title was based upon a Spanish plat and certificate without date for 425 arpents, surveyed by Spain, in 1807, with settlement and cultivation from 1803 to 1814, as appears by the re-

port on the claims contained in the 3rd vol. of the Am. State Papers, Public Land, Green's edition, p. 49.

That the claim was not valid as a Spanish title, but was confirmed as a *donation* by the act stated, on account of settlement, prior to April 15, 1813. (3rd volume Statutes at Large, p. 529, 2d sec. of act of March 3d, 1819.)

That section 48, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres under the act of March 3d, 1819, in favor of Elizabeth Collins.

That section 47, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres under the act of 4th of May, 1826, in favor of Fielding W. Collins.

That section 49, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of March 3d, 1819, in favor of John Sims.

That section 53, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of 8th May, 1822, in favor of Martin Woolet.

That section 54, T. 5 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of 8th May, 1822, in favor of John Montgomery.

That section 55, T. 5 S., R. 2 E., and sec. 62, T. 6 S., R. 2 E., have been surveyed and located as a donation for 640 acres, under the act of March 3rd, 1819, in favor of James Jackson.

That section 63, T. 6 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under purchase, by act of March 3d, 1819, in favor of Jacob Chambers.

That section 66, T. 6 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under settlement, under the act of 8th May, 1822, in favor of Jacob Chambers.

That section 67, T. 6 S., R. 2 E., has been located and surveyed as a donation for 640 acres, under the act of 8th May, 1822, in favor of William Long.

That section 68, T. 6 S., R. 2 E., has been surveyed and located as a donation for 640 acres, under the act of March 3rd, 1819, in favor of John Fridges.

H. GASCON,

Chief Clerk in Surveyor-General's Office.

Sworn to and subscribed before me this 4th day of March, 1872.

(Signed) J. A. CHARBONNET,
D'y Clerk.

Document H.—Filed May 23d, 1872.

HEIRS OF JAMES INNERARITY
vs.
THE UNITED STATES. } No. 16 new land-docket.

HENRY GASCON, witness for the complainants in the above-entitled cause, being duly sworn, makes the following statements, supplementary to & in explanation of his affidavit made in this cause, on the 4th day of March, 1872:

That section 48, in township 4 south, of range 2 east, was confirmed on account of settlements prior to April 15th, 1813, the year of the 1st settlement being 1811.

That the year of settlement for sect. 49, same township, and of sect. 57, T. 5 S., R. 2 E., was 1812.

That the year of settlement for sect. 52, same t'p, & sec. 58, T. 5 S., R. 2 E., was 1805.

That the year of settlement for section 60, T. 5 S., R. 2 E., was 1811.

That the year of settlement for section 61, same township, was 1811.

That the year of settlement for section 65, same township, is September, 1802.

That the year of settlement for section 41, same township, was 1809.

That the year of settlement for section 42, same township, was 1803 to 1814.

That the year of settlement for section 47, same township, was 1803.

That the year of settlement for section 48, same township, was 1806.

That the year of settlement for section 49, same township, was Aug., 1802.

That the year of settlement for section 53, same township, was 1804.

That the year of settlement for section 54, same township, was 1810.

That the year of settlement for section 55, T. 5 S., R. 2 E., and sec. 62, T. 6 S., R. 2 E., was 1812.

That the year of settlement for section 63, in township 6 S., R. 2 E., was February, 1813.

That the year of settlement for section 66, same township, was 1812.

That the year of settlement for sec. 67, same township, was Dec., 1812, and that the year of settlement for section 68, same township, was 1805.

That he makes this affidavit from the facts as shown & established by the records of the surveyor-general's office for the State of Louisiana, with which records he is familiar. That such records from which he speaks consist, among other authentic documents, of the volumes of the American State Papers relating to public lands, certificates of confirmation, or copies thereof on file, orders of survey, and the approved township maps containing the lands embraced within the two surveys of the grants to Ramos.

That the sections to which he has referred comprise all the land embraced in said two surveys which the United States have granted as donations, but do not embrace any lands which they have alienated under the general laws relating to sales, pre-emptions, homesteads, or other modes of disposition of a similar nature.

(Signed) H. GASCON,
Ch'f Clerk U. S. Surveyor-General.

Sworn to and subscribed before me March 14th, 1872.

(Signed) J. A. CHARBONNET,
D'y Clk.

Document "I."—Filed May 23d, 1872.

HEIRS OF JAMES INNERARITY
vs.
UNITED STATES.
} No. 16 new land-docket.

EDMUND WOOLRIDGE, being duly sworn for complainant, deposes and says: I am a near relative of *Dr. John Watkins*, deceased. My father was cotemporaneous with him in this city up to the time of his death, so that I am traditionally familiar with his history. *He had but one child, John Watkins*, now deceased, whom I knew as far back as forty years. With his family I am personally intimately acquainted. From tradition I know that *Dr. John Watkins died in* 1812. My father came to this country with him. Of my knowledge, *John Watkins, his son, died about* 1864. I was present, but cannot be certain as to date. I knew his mother, the wife of Dr. John Watkins, intimately. She died in this city a few years since. John Watkins left only four children, all of whom I know intimately, viz, Elise Watkins, John H. Watkins, Lucie Watkins, (wife of E. R. Hogan), and Henry Watkins, all of whom are of age, and reside in the city of New Orleans.

(Signed) E. WOOLRIDGE.

Sworn to and subscribed before me March 12, 1872.

(Signed) J. A. CHARBONNET,
D'y Clerk.

HEIRS OF JAMAS INNERARITY
vs.
THE UNITED STATES.
} No. 16 new land-docket.

EDWARD R. HOGAN, being duly sworn for complainant, deposes and says:

That John Watkins, who died in this city in the year 1812, left but one child, viz, John Watkins, j'r, issue of his marriage with the late Eulelie Trudeau; that said John Watkins married Elise Duéras, and both are now dead, and that the issue of said marriage was four chil-

dren, viz, Elise Watkins, John H. Watkins, Lucie Watkins (wife of affiant), and Henry Watkins, all of whom are now of age.

(Signed) E. R. HOGAN.

Sworn to and subscribed before me March 12, 1872.

(Signed) J. A. CHARBONNET,
Dy Clerk.

[Extract from pages 17 to 31 of the Record in the case of The United States *vs.* Heirs of James Innerarity, No. 242, December term, 1872.]

IN THE

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1877.

No. 668.

THE UNITED STATES, APPELLANT,

vs.

THE HEIRS OF JOHN WATKINS,

AND

MELANIE BRINGIER, *formerly widow of Wm. Simpson, deceased, and now widow of James F. Wilson, deceased*, APPELLANT,

vs.

THE UNITED STATES.

Appeals from the District Court of the District of Louisiana.

BRIEF OF DRUMMOND & BRADFORD,

Attorneys for the Heirs of John Watkins, and for the Widow of James F. Wilson, deceased.

STATEMENT.

This is a proceeding in equity, instituted against the United States, in the District Court of the United States for the District of Louisiana, by the heirs of John Watkins et al. under the Act of Congress approved June 22, 1860, (12 Statutes, p. 85,) as revived and re-enacted, for three years, by the Act approved June 10, 1872, (17 Statutes, p. 378.) These Acts provided for the adjustment and confirmation of private land claims, either by proceedings before Boards of Commissioners and Congress, or the Courts. The heirs of Watkins et al. commenced these proceedings, in the courts, and in their petition prayed for judicial recognition of the

validity of a Spanish grant or concession of 20,000 arpens of land, (equal to 16,730 acres,) in East Baton Rouge Parish, Louisiana, made to Charles Ramos, by Intendent General Morales, in 1803; and perfected by a survey duly executed the same year, separating the lands granted from the mass of the public domain, and a patent, bearing date March 5, 1804, after the Louisiana treaty, but before the expulsion of the Spaniards from that region, and while the Spanish Government claimed and exercised sovereignty over, and had actual possession of, the district or territory in which the lands granted to Ramos were and are situated.

After the said Charles Ramos was thus invested with title to said lands, to wit: on the 8th of March, 1804, he sold and conveyed the same and all his right, title and interest, in said grant, to John Watkins and William Simpson in undivided equal parts.

The said John Watkins died intestate, in the city of New Orleans, about the year 1812, leaving, as his sole heir and only child, John Watkins, Jr., who died, also, intestate about the year 1864, in said city of New Orleans, leaving as his only heirs Elize Watkins, Henry Watkins, Lucie Watkins, (wife of E. R. Hogan,) and John B. Watkins, petitioners in these proceedings.

The said William Simpson died, about the year 1812, in the city of New Orleans, leaving a last will and testament which was duly admitted to probate, in the Second District Court of the parish of Orleans and State of Louisiana, and executed, whereby he devised his interest in said lands to Melanie Bringier, formerly wife of the said William Simpson, and now widow of James F. Wilson, deceased, who is also a petitioner in these proceedings.

By Act of Congress of April 12, 1812, the State of Louisiana was admitted into the Union; and by Act of April 14th, 1812, the boundaries of said State were extended so as to embrace the district of country in which the lands granted, as aforesaid, are situated. Under the Act of Congress approved April 25, 1812, (2 Statutes, 713,) as extended by the Act approved April 18, 1814, (3 Statutes, 137,) the claim to said 20,000 arpens of land, under said grant, was duly presented to James O. Cosby, then United States Land Commissioner for the district west of Pearl river, now a part of the New Orleans consolidated land district, in Louisiana, to be by him recorded, examined and reported to Congress for recognition, &c. The said Commissioner reported the said claim as one which, in his opinion, was not entitled to confirmation. The said claim as so reported appears as No. 15 in register C in said Commissioner's report. (American State Papers, Green's edition, Volume 3, page 54.) By reason of such adverse report and opinion the United States government has never taken any action on said claim and has not confirmed or recognized the same, or rejected it; and neither the petitioners herein or those through and under whom they claim have had or enjoyed possession of said lands or any part thereof, at any time, during a period embracing more than twenty years preceding the commencement of these proceedings, in the said District Court; and the United States in disregard of the title of petitioners and those through whom they claim, long since extended its surveys over said lands and disposed of the same, or nearly all thereof, to persons other than petitioners and those under and through whom they claim title, by sales, donations, &c.

Upon these facts petitioners claim that they are entitled, under international law, treaty stipulations and the legislation of Congress to a judicial recognition and confirmation of their title to the lands embraced in said grant of 20,000 arpens, and to patents for so much as have not been disposed of and the right to enter other lands, in lieu of those which have been disposed of.

The United States, in its answer to the petition of the parties, claiming said grant and suing for its confirmation, denies the execution of the grant and the conveyances vesting title in petitioners; the heirship of petitioners and their right as legal representatives of Charles Ramos; and aver that if said grant was made it was not done by competent authority, under the Spanish Government; and that it was never separated from the public domain by actual survey and metes and bounds; and that it is, therefore, void for uncertainty of location and vagueness of description; and that Congress did not intend to make compensation for lands disposed of otherwise than by actual sales; and that a large portion of the lands, embraced in said grant, have been disposed of otherwise than by sales.

On the trial in the court below petitioners proved every material allegation contained in their petition. The United States did not offer or submit any evidence whatever, but moved to suppress so much of the evidence of petitioners as was contained in the copies of the grant to Ramos, and the plats of the Spanish survey, thereof, on the ground that petitioners had neither alleged the loss of the originals, nor attempted to account for their non-production.

The District Court rendered judgment, affirming the grant to Ramos; and the claim of Watkins's heirs, thereunder, from which the United States appealed, and rejecting the claim of Malanie Bringier, widow of James F. Wilson, deceased, and, formerly, widow of William Simpson, deceased, from which she appealed, to this Court, where under the act of June 22, 1860, as revived and re-enacted by the act of June 10, 1872, the matters involved are now to be adjudged *de novo*.

QUESTIONS INVOLVED.

I. *Was the grant or concession made to Charles Ramos, as alleged by petitioners?*

II. *Was title in Ramos created and perfected thereby during the period that the Spanish Government claimed sovereignty over and had actual possession of the territory in which the lands were and are situated?*

III. *Have petitioners succeeded to the right and title of Ramos?*

IV. *If so, are they entitled to a judicial recognition and confirmation of their claims?*

V. *Has the Government of the United States disposed of the lands, granted or any portion thereof, as public lands, to parties other than petitioners or those under and through whom they claim?*

VI. *If so, are petitioners entitled to make entry of other lands, in lieu of those so disposed of, and a judgment to that effect?*

Argument.

First. Was the grant or concession made to Charles Ramos, as alleged by petitioners?

The evidence on this point will be found in document "B," containing:

1st. Notice of claim by James Innerarity, executor of the estate of William Simpson, filed before the Commissioner of Land Claims west of Pearl river, on the 24th of July, 1814.

2nd. Two plans of two tracts, comprising said grant to Ramos, made by Pintado, Spanish deputy surveyor, and duly recorded.

3d. Two process verbals of surveys, by Pintado, of the two tracts comprising the said grant of 20,000 arpens, and of their appraisement, &c.

4th. The Spanish grant or title in form by Juan Ventura Morales, Intendent General, &c., to Charles Ramos, of 20,000 arpens of land, dated March 5, 1804, all duly certified, as copies, and translated. It clearly and conclusively establishes the fact that the grant was made to Ramos, as alleged by petitioners A question is raised, however, as to the admissibility of this evidence, so far as the grant and the plats thereof are concerned, on the ground that these copies cannot be used without accounting for the non-production of the originals, &c.; and a motion was made to suppress the same. This motion cannot be sustained, as the records from which the copies were taken were Government records, made and kept pursuant to law, under the supervision of commissioners, acting under oath, who were charged with the duty of making full invesgation as to the genuineness and authenticity of instruments and documents recorded by them. These commissioners were assisted by a sworn clerk, versed in the French and Spanish languages and capable of making correct translations of such instruments or documents. The recording of grants, &c., was, by law, made compulsory. (See act of April 25, 1812, 2 Statutes, 713; act of March 3, 1819, 3 Statutes, 528; act of May 26, 1824, 4 Statutes, 59.) The records of grants, &c., thus made pursuant to law were, by act of Congress, required to be lodged with the registers of the appropriate land offices, and have been and are to this day recognized and treated as a basis for certificates of confirmation and patents for all claims confirmed by Congress. (Act March 3, 1819, section 12.)

The copies submitted are correctly verified and certified, by the register of the land office, at New Orleans, as true, complete, and accurate copies of the records lodged and kept on file in his office. The documents were public writings, and so are the records from whence the register takes and certifies the copies. These records are so reliable that Congress frequently acts on abstracts of them, as sufficient evidence of the original grants, &c., recorded in them. (American State Papers, Vol. 3, pp. 35 to 72 and act March 3, 1819, sections 1, 2 and 3.) But aside from the repeated recognition of the reliability of these records by Congress, in legislating upon grants recorded in them, it has by direct legislation made them evidence in cases arising, as the present one does, under the act of June 22, 1860. The 7th section of that act, as revived, provides: "That whenever any claim is presented for confirmation, under the provisions of this act, which has heretofore been presented, before any board of commissioners under authority of Congress, the facts reported as proven, by the former board shall be taken as true *prima facie;* and the evidence offered before such former board and remaining of record, shall be ad-

mitted on the examination of the claims made under the provisions of this act." The act neither says nor implies that the existence or loss of the original documents shall be established before the record thereof shall be admitted in evidence, and, as the register of the land office could not, legally, allow the records to be taken from his office, the only way the records could be used in evidence, under the law, was through and by certified copies thereof, and these were, undoubtedly, as admissible as the records themselves. But aside from the acts of Congress to which we have referred, the copies were admissible on general principles. Books of enrolment of deeds are provable by immediate copy, duly verified. (1 Greenleaf on Evidence, section, 484.) Where a deed is found duly engrossed on the registry, a copy is good evidence. (Booge *v.* Parsons, 2 Vermont, 456.)

The inability of petitioners to produce the original papers showing a grant to Ramos is neither strange nor suspicious. Taking into account the time that has elapsed, the successive changes of ownership, the death of parties, the extinction and separation of families, the chaos of war, and the consequent exposure of the papers to loss, by accident or fire, it would be strange indeed if they could do so. Surely they will not, under such circumstances, be held responsible or required to account for their absence in order to avail themselves of the benefit of copies made and authenticated by the authorized agents and officers of the Government. This would be unreasonable and oppressive. But if they could be required to account for these documents the record shows that the last that was known of them they placed them in the hands of officers of the Government, pursuant to a law which did not provide for their return to them, and it must be presumed that they are still in the custody and under the control of Government, unless destroyed by the successive fires which are known to have occurred at the St. Helena land office, where they were originally filed, and the New Orleans land office, to which the records of the St. Helena office were subsequently transferred. This is sufficient.

But the rights of petitioners are not wholly or even mainly dependent upon the admissibility of the copies of the papers annexed to their petition. Even if these were not admissible as evidence, the fact that the grant was made to Ramos by the Spanish government, as alleged, is fully proven and established by other evidence, to which no objection has been or can be made. By the 7th section of the act of June 22, 1860, the facts found and reported by the Commissioners, to whom the claim of Ramos was originally presented for record and confirmation, must be taken as true *prima facie*.

The Commissioner, in his report on this claim, (Volume 3, American State Papers, Green's edition, page 54, Register C, No. 15,) found as proven that Morales issued a patent to Charles Ramos, for 20,000 arpens of land, &c., dated March 5, 1804; and that the same had been surveyed by Pintado on the 23d of December, 1803, pursuant to an order of survey, by Morales, dated Oct. 1, 1803. Independent, therefore, of the evidence furnished by the copies of the grant and plats, objected to, the grant to Ramos is fully proven and established. This is certainly sufficient in the absence of any evidence to the contrary.

Second. Was title in Ramos created and perfected by the grant during

the period that the Spanish government claimed sovereignty over, and had actual possession of, the territory in which the lands were and are situated?

On this point there is no room for doubt or controversy. These lands are situated between the Mississippi and Perdido rivers, a district of country over which Spain claimed and exercised sovereignty, and of which it retained the actual possession until 1810, when the United States took forcible possession of the same. (United States v. Lynde, 11 Wallace, p. 632.)

Third. Have petitioners succeeded to the right and title of Ramos?

That they have is clearly shown by the following papers submitted as evidence:

1st. By Document F, being sale by Ramos to John Watkins and William Simpson, of 20,000 arpens of land in equal proportions, dated March 8, 1804, and translation thereof, in Document B.

2d. Document D, being certified copy of the last will and testament of William Simpson deceased.

3d. Document E, process verbal, of the opening and proof of said will, &c., duly certified.

4th. Document I, comprising, 1st., the affidavit of E. Woolridge, showing death of John Watkins, and the names and number of his heirs; 2d, affidavit of E. R. Hogan, showing the death of John Watkins, jr., son of the aforesaid John Watkins, and the names, number and ages of his heirs.

Fourth. Are petitioners entitled to judicial recognition and confirmation of their claim? It follows from what we have already said and shown that they are. So far as the heirs of Watkins are concerned there can be no doubt on this point. But it appears that pending these proceedings Melanie Bringier (widow of James F. Wilson, deceased) discovered that she had sold her interest in these lands to one James Innerarity, about the 16th of June, 1813, and sought to amend the pleadings so as to prosecute the proceedings for the use and benefit of the real parties in interest; and as the case is now before the court to be adjudged *de novo*, according to the principles of equity, the claim (so far as it is represented by her) should undoubtedly be confirmed, in the name and for the use of the legal representatives of William Simpson, deceased, to whom title is unquestionably traced. The form of the confirmation should be according to the facts established. Under the doctrine laid down by this court in the case of the United States *v.* Patterson, (15 Howard, page 12,) it is not necessary that the proof of title in plaintiff should be complete and conclusive, to justify a confirmation of the grant. In that case Patterson claimed as a purchaser, of an interest in two Spanish grants, from the heirs of William Barr. A decree was rendered by the District Court, in which his suit was brought, confirming his claim. An appeal was taken, by the United States, to the Supreme Court. In considering and deciding this appeal, the latter Court found that Patterson had not made out his title, under the heirs of Barr, but, as the original grant was deemed entitled to confirmation, affirmed the decree of the District Court, with the direction "that the confirmation shall be for the use of the legal representatives of William Barr, deceased." Therefore, should the Court doubt the sufficiency of Mrs. Wilson's proofs of title, in herself, it can

and should dispose of the matter, by confirming the grant, so far as it is represented by Mrs. Wilson, in general terms to (William Simpson, deceased, or) his legal representatives, as title is, unquestionably, traced down to him. It is not necessary that the question of present ownership should be absolutely determined and settled in these proceedings. Commissioners, in confirming claims of a similar nature and under similar laws, uniformly do so in the manner adopted by the Court in the Patterson case, and leave the question of present ownership to be afterwards determined in a proper and legal manner, (Connoyer *v.* Schaeffer, 22 Wallace, 254;) and locations of lieu lands made pursuant to such a confirmation would be in the same form and inure to the benefit of the confirmee or his legal representatives, whoever they may be.

Fifth. Has the Government of the United States disposed of the lands granted or any portion thereof, as public lands to parties other than petitioners or those under and through whom they claim?

Document A, the certificate of the Register of the proper land office thereto, and the testimony of Gascon, show that all the lands have been disposed of, except section 2, township 5 south, range 2 east, containing 26.72 acres. This is sufficient, under the act of 1860.

Sixth. Are petitioners entitled to make entry of other lands in lieu of those so disposed of and to judgment to that effect? There can be no doubt that they are.

Section 6 of the act of June 22, 1860, provides that the party in whose favor a title is confirmed shall have the right to enter a quantity of lands equal to that sold by the United States; and section 11, that when the court shall adjudge a claim valid, patent shall issue for so much of the lands claimed as remain unsold, and that for so much as may have been sold the provisions of section 6 shall apply.

Petitioners have unquestionably established the grant to Ramos, the right of the Watkins heirs, as his legal representatives, to an undivided one-half of the land claimed, and the right of the legal representatives of William Simpson, deceased, to the other undivided half. They have, also, established the fact that all the lands granted, except one small tract, have been disposed of by the Government. This clearly entitles the heirs of Watkins and the legal representatives of Simpson to enter a quantity equal to those so disposed of and to judgment therefor. The fact that the lands have in part been donated to settlers by the Government, does not affect this right. No grants, in conflict with this claim, emanating from a foreign source, either senior or junior, have been recognized or confirmed. Donations are included in the general term "sold," as used in the act of 1860, and this court has so held heretofore, as we are informed, and the question is no longer an open one. The Government having by its own act disposed of the lands and placed it beyond its power to give the grantee or his legal representatives a clear title thereto, is bound by the act of 1860 to give them lieu lands.

DRUMMOND & BRADFORD,
Attorneys for Petitioners.